

**Law Offices of Patrick J.S. Inouye**

810 Third Avenue, Suite 258  
Seattle, Washington 98104  
Telephone: (206) 381-3900  
Facsimile: (206) 381-3999

**Facsimile Transmittal**

RECEIVED  
CENTRAL FAX CENTER

OCT 11 2004

To: Examiner Jeffrey R. Jastrzab  
Art Unit: 3762

Fax: (703) 872-9306

From: Patrick J.S. Inouye

Date: October 11, 2004

Re: U.S. Patent Application  
Serial No. 10/646,084

Pages: 7 (including cover sheet)

CC:

Urgent       For Review       Please Comment       Please Reply       Please Recycle

**Notes:****Examiner Jastrzab:**

Please find attached the following documents regarding the above-identified U.S. patent application.

- USPTO Transmittal Form
- USPTO Fee Transmittal Form
- Credit Card Payment for \$110.00
- Office Action Response
- Terminal Disclaimer To Obviate A Double Patenting Rejection Over Prior Patents

Notice: The information contained in this facsimile is privileged and confidential information protected by the attorney-client privilege and is intended only for the use of the above-named recipient. If you are not the intended recipient, or a person responsible for delivering this facsimile to the intended recipient, any distribution or copying is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the facsimile to the above-indicated address by mail.

Received in  
CF-10-12-04

PTO/SB/21 (04-04)

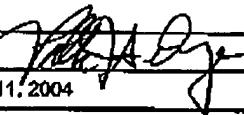
Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paper Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

|  |  |   |
|--|--|---|
| <b>TRANSMITTAL FORM</b><br><i>(to be used for all correspondence after initial filing)</i> |  | Application Number<br>10/846,084          |
|  |  | Filing Date<br>August 22, 2003            |
|  |  | First Named Inventor<br>Bardy, Gust H.    |
|  |  | Art Unit<br>3762                          |
|  |  | Examiner Name<br>Jeffrey R. Jastrzab      |
| Total Number of Pages in This Submission   |  | Attorney Docket Number<br>020.0343.US.CON |

| ENCLOSURES (Check all that apply)   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment / Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/ Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input checked="" type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC)<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>Facsimile Cover Sheet |
| Remarks   |   |  |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |   |
|--|---|
| Firm or Individual name                    | Law Offices of Patrick J.S. Inouye  |
| Signature                                  |  |
| Date                                       | October 11, 2004  |

| CERTIFICATE OF TRANSMISSION/MAILING   |   |
|---|---|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. |   |
| Typed or printed name   | Krystyna Szul   |
| Signature   |  |
| Date  | October 11, 2004  |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

In you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/17 (10-03)

Approved for use through 07/31/2008. OMB 0651-0032  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

 Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 110.00)

## Complete If Known

|                      |                     |
|----------------------|---------------------|
| Application Number   | 10/646,084          |
| Filing Date          | August 22, 2003     |
| First Named Inventor | Bardy               |
| Examiner Name        | Jeffrey R. Jastrzab |
| Art Unit             | 3762                |
| Attorney Docket No.  | 020.0343.US.CON     |

## METHOD OF PAYMENT (check all that apply)

 Check  Credit card  Money Order  Other  None Deposit Account

|                        |                                    |
|------------------------|------------------------------------|
| Deposit Account Number | 503031                             |
| Deposit Account Name   | Law Offices of Patrick J.S. Inouye |

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments

Charge any additional fee(s) or any underpayment of fee(s)

Charge fee(s) indicated below, except for the filing fee to the above identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

| Large Entity | Small Entity | Fee Description                | Fee Paid |
|--------------|--------------|--------------------------------|----------|
| 1001         | 780          | 2001 385 Utility filing fee    |          |
| 1002         | 350          | 2002 175 Design filing fee     |          |
| 1003         | 550          | 2003 275 Plant filing fee      |          |
| 1004         | 780          | 2004 395 Reissue filing fee    |          |
| 1005         | 180          | 2005 80 Provisional filing fee |          |

## SUBTOTAL (1) (\$)

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

|                    |  | Extra Claims | Fee from below | Fee Paid |
|--------------------|--|--------------|----------------|----------|
| Total Claims       |  | -20**        | X              | =        |
| Independent Claims |  | - 3**        | X              | =        |
| Multiple Dependent |  |              |                | =        |

| Large Entity | Small Entity | Fee Description  | Fee Paid |
|--------------|--------------|--|----------|
| 1202         | 18           | 2202 9 Claims in excess of 20                                    |          |
| 1201         | 88           | 2201 44 Independent claims in excess of 3                        |          |
| 1203         | 300          | 2203 150 Multiple dependent claim, if not paid                   |          |
| 1204         | 88           | 2204 44 **Reissue independent claims over original patent        |          |
| 1205         | 18           | 2205 9 **Reissue claims in excess of 20 and over original patent |          |

## SUBTOTAL (2) (\$)

\*\* or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

| Large Entity | Small Entity | Fee Description  | Fee Paid |
|--------------|--------------|--|----------|
| 1051         | 130          | 2051 85 Surcharge - late filing fee or oath  |          |
| 1052         | 80           | 2052 25 Surcharge - late provisional filing fee or cover sheet                     |          |
| 1053         | 130          | 1053 130 Non-English specification   |          |
| 1812         | 2,520        | 1812 2,520 For filing a request for ex parte reexamination                         |          |
| 1804         | 920*         | 1804 920* Requesting publication of SIR prior to Examiner action                   |          |
| 1805         | 1,840*       | 1805 1,840* Requesting publication of SIR after Examiner action                    |          |
| 1251         | 110          | 2251 65 Extension for reply within first month                                     |          |
| 1252         | 430          | 2252 215 Extension for reply within second month                                   |          |
| 1253         | 980          | 2253 490 Extension for reply within third month                                    |          |
| 1254         | 1,530        | 2254 765 Extension for reply within fourth month                                   |          |
| 1255         | 2,080        | 2255 1,040 Extension for reply within fifth month                                  |          |
| 1401         | 340          | 2401 170 Notice of Appeal  |          |
| 1402         | 340          | 2402 170 Filing a brief in support of an appeal                                    |          |
| 1403         | 300          | 2403 150 Request for oral hearing  |          |
| 1451         | 1,510        | 1451 1,510 Petition to institute a public use proceeding                           |          |
| 1452         | 110          | 2452 55 Petition to revive - unavoidable   |          |
| 1453         | 1,370        | 2453 685 Petition to revive - unintentional  |          |
| 1501         | 1,370        | 2501 685 Utility issue fee (or reissue)  |          |
| 1502         | 480          | 2502 245 Design issue fee  |          |
| 1503         | 680          | 2503 380 Plant issue fee   |          |
| 1460         | 130          | 1460 130 Petitions to the Commissioner   |          |
| 1807         | 50           | 1807 50 Processing fee under 37 CFR 1.17(q)  |          |
| 1806         | 180          | 1806 180 Submission of Information Disclosure Stmt                                 |          |
| 8021         | 40           | 8021 40 Recording each patent assignment per property (times number of properties) |          |
| 1809         | 700          | 2809 395 Filing a submission after final rejection (37 CFR 1.129(b))               |          |
| 1810         | 700          | 2810 395 For each additional invention to be examined (37 CFR 1.129(b))            |          |
| 1801         | 700          | 2801 385 Request for Continued Examination (RCE)                                   |          |
| 1802         | 900          | 1802 900 Request for expedited examination of a design application                 |          |

Other fee (specify) Terminal Disclaimer

\*Reduced by Basic Filing Fee Paid

## SUBTOTAL (3)

(\$ 110.00)

## SUBMITTED BY

Complete (if applicable)

|                   |   |                                   |                  |           |                |
|-------------------|---|-----------------------------------|------------------|-----------|----------------|
| Name (Print/Type) | Patrick J.S. Inouye   | Registration No. (Attorney/Agent) | 40297            | Telephone | (206) 381-3900 |
| Signature         |  | Date                              | October 11, 2004 |           |                |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Response to First Office Action  
Docket No. 020.0343.US.CON

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|  |                        |                    |
|--|------------------------|--------------------|
| 5 <i>In re Application of</i><br>Gust H. Bardy   | ) Group Art Unit: 3762 | <b>RECEIVED</b>    |
|  | )                      | CENTRAL FAX CENTER |
| Serial No. 10/646,084  | )                      | OCT 11 2004        |
| 10     Filed: August 22, 2003  | )                      | )                  |
| For: System And Method For Providing<br>Feedback To An Individual Patient For<br>Automated Remote Patient Care | )                      | )                  |

15

**RESPONSE TO FIRST OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
20    Alexandria, VA 22313-1450

Examiner Jastrzab:

In response to the Office action mailed on September 29, 2004 for the above-referenced patent application, please consider the following remarks.

25    Claims 1-23 are pending. No claims have been amended. Claims 1-23 remain in this application. No new matter has been entered.

Claims 1-23 stand rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-23 of commonly-assigned U.S. Patent No. 6,203,495 ('495), Claims 1-62 of commonly-assigned U.S. Patent No. 30    6,312,378 ('378), Claims 1-15 of commonly-assigned U.S. Patent No. 6,331,160 ('160), and Claims 1-19 of commonly-assigned U.S. Patent No. 6,478,737 ('737).

A Terminal Disclaimer is enclosed disclaiming the terminal part of any patent granted on the instant patent application that would extend beyond the expiration dates of the '495, '378, '160, and '737 patents. Withdrawal of the 35    rejection for double-patenting is respectfully requested.

The prior art made of record and not relied upon has been reviewed by the applicant and is considered to be no more pertinent than the prior art references already applied.